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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,400	11/21/2003	Charles Christopher Thorpe	3000177 / 703454-2001	2557
7590	02/18/2005		EXAMINER	
Bingham McCutchen LLP Suite 1800 Three Embarcadero Center San Francisco, CA 94111-4067			VAN, QUANG T	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/719,400		THORPE ET AL.	
	Examiner		Art Unit	
	Quang T Van		3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 31-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claim 66 is objected to because of the following informalities: "the microwave housing", recited in line 2, has a typo error and should be changed to "the **microwaveable** housing" for consistency throughout the claims. Correction is required.
2. Claim 67 is objected to because the term "claim 3,9" has a typo error and should be changed to "claim 39,". Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-6, 14-15, 18-19, 23, 27-29, 31, 39-42, 45, 47, 49-50, 53, 56, 59-69 are rejected under 35 U.S.C. 102(b) as being anticipated by Housley (US 5,988,045). Housley discloses, figure 1, a utensil supporting multiple cooking environments for preparing foods comprising a microwaveable housing (10) having a lower housing section (12) and an upper housing section (40); a support member (22a, 22b, 22c) in said lower housing section (12); a grill surface (32) for supporting the food item thereon, said grill surface (32) defining a plurality apertures (36) and being placed on said support member (22a, 22b, 22c); and gelatinous ingredient (col. 5, lines 60-65); said gelatinous ingredient being located in said lower housing section (12) and below said

grill surface (32) so that steam from heating said gelatinous ingredient is applied to the food item through the apertures of said grill surface (col. 6, lines 50-65).

5. Claims 1-3, 6, 14, 59, 66 are rejected under 35 U.S.C. 102(b) as being anticipated by Danley et al (US 4,477,705). Danley discloses a cooking utensil for a microwave oven comprising a microwaveable housing (10), a grill surface (40) supporting the food item (41)thereon, and an ingredient (water, col. 4, lines 19-20)for application to the food item, wherein the ingredient is not extracted from the food item, said grill surface (40), said ingredient (water, col. 4, lines 19-20), and the food item being contained within said microwaveable housing (10) for heating in the microwave oven, said ingredient being positioned below said grill surface (42, col.4, line 20), so that steam from heating said ingredient is applied to the food item.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 20-22, 43-44, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Koochaki (US 6,229,131). Housley discloses substantially all features of the claimed invention except a housing including a vent. Koochaki discloses a microwave-cooking grill (100) having a housing including a vent (186). It would have been obvious to one having ordinary skill in the art

at the time the invention was made to utilize in Housley a housing including a vent as taught by Koochaki in order to release the steam from the cooking housing.

8. Claims 4, 24-26, 46, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Levinson (US 4,923,704).

Housley discloses substantially all features of the claimed invention except said grill surface being coated with a metalized susceptor material. Levinson discloses a grill surface being coated with a metalized susceptor material (col. 4, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a grill surface being coated with a metalized susceptor material as taught by Levinson in order to absorb the microwave energy and also delivery the microwave energy to the cooking food.

9. Claims 16-17, 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Barnes (US 6,608,292). Housley discloses substantially all features of the claimed invention except a connector that couples said lower and upper microwave housing sections. Barnes discloses a connector (212) that couples said lower (104) and upper microwave housing sections (102). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a connector that couples said lower and upper microwave housing sections as taught by Barnes in order to connect the upper and the lower housing section together.

10. Claims 7-13, 32-38 and 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Choy et al (GB 2308465A).

Art Unit: 3742

Housley discloses substantially all features of the claimed invention except the flavoring comprising a charcoal flavoring. Choy discloses the flavoring comprising a charcoal flavoring (page 1, lines 7-12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley the flavoring comprising a charcoal flavoring as taught by Choy in order to suit the user taste. With regard to a beef flavoring, a lemon flavoring, and the ingredient including an aroma, a coloring for the food item; it would have been obvious to one having ordinary skill in the art to apply different flavoring ingredients to the cooking items. Doing so would please to each person taste.

11. Claim 3, 20-22, 43-44, 48, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Craft (US 6,018,157). Housley discloses substantially all features of the claimed invention except a housing including vent. Craft discloses a housing (14) including vent (18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a housing including a vent as taught by Craft in order to release the steam from the cooking housing.

Response to Amendment

12. Applicant's arguments filed 1/11/05 have been fully considered but they are not persuasive.

Applicants argue that "The water, oil and grease that drains from a food item is not an "ingredient for application" to the food item since oil and grease are typically (and preferably) removed from a food item" recited in Remarks (page 15, lines 16-18). The

Examiner disagrees. The grease that is extracted from the food item, but the water and oil are adding to the food or adding to the apparatus before cooking. When steam the food item such as vegetables, because during cooking water is vaporized and applied to the vegetables and makes them taste better. Therefore, water is considered an ingredient that applied to the vegetables. Many food items such as beef, pork, chicken, etc... are required adding oil (olive oil, sesame oil, peanut oil, etc...) before cooking in order to add flavor to the cooking food; therefore, oil is considered is a gelatinous ingredient that applied to the cooking food. Further, Applicants argue that "Housley teaches away from Applicants' claims since the oil and grease is not an ingredient "for application" to a food item since adding oil and grease would negatively affect the quality of the food item. Further adding drained oil and grease to a food would make the food item less healthy" recited in Remarks (page 15, lines 26-27 and page 16, lines 1-2). The Examiner disagrees. The oil is an ingredient because it adding flavor to the cook food, it may not a healthy food to diet people, but is a good food to people not on diet.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV
February 15, 2005



Quang T Van
Primary Examiner
Art Unit 3742